

REMARKS

In the instant Office Action, the Examiner noted that claims 1-20 are pending in the application; that claims 1-20 are rejected. By this argumentative response and request for reconsideration, no claims have been cancelled, amended or added. Thus, claims 1-20 remain pending in this application.

Response to Rejections Under 35 U.S.C. §103

Applicants respectfully request reconsideration because the Examiner has failed to cite a reference in support of his position when taking Official Notice regarding several claimed features of the present invention.

In the previous response, Applicants traversed the Examiner's assertion, regarding claims 1, 6 and 18-20, that *Danknick* (U.S. Patent No. 5,901,286) teaches ordering for peripheral devices and that, via Official Notice, it was old and well-known at the time of the invention of *Danknick* to provide the following features: providing an order location; providing an electronic shopping cart list; placing an order for the consumable with the reseller using the personal computer; automatically placing the order for the consumable in response to notifying the user; and, prior to placing the order, querying a user to authorize placing the order with an identified seller. The Examiner asserted that it was old and well-known at the time of the invention of *Danknick* to provide the features noted to electronic commerce systems that provide for ordering of parts or services over the Internet. The Examiner made a similar assertion regarding claims 4, 5 and 7, using *Danknick* as teaching ordering parts, but not mentioning the authorized features of the instant claims. The Examiner then took Official Notice that implementing levels of authorization for automated parts ordering is old and well-known in the art. The Examiner further asserted that it would have been obvious to a person of ordinary skill in the art to include in *Danknick* the authorization features as taught in the instant claims, because this would limit the purchasing authorities and provide a set of rules for spending a company's money during the purchasing process.

At that time, Applicants traversed the Examiner's position taking Official Notice to the above-described features, and Applicants requested that the Examiner cite a reference in support of his position, or an affidavit if the rejection was based on facts within the personal knowledge of the Examiner (see MPEP §2144.03). However, the Examiner has failed to do this.

Instead, the Examiner has asserted that (with respect to claims 1, 6, 18, 19, and 20) that *Danknick* teaches ordering for a peripheral device, but does not mention using the specific ordering features of the instant application such as: providing an order location; providing an electronic shopping cart list; placing an order for the consumable with the reseller using the personal computer; automatically placing the order in response to notifying the user; and prior to placing the order, querying a user to authorize placing the order with an identified reseller. The Examiner takes the position that it was old and well-known at the time of the invention of *Danknick* to provide the features noted above to electronic commerce systems that provide for ordering parts or services over the Internet. Because these features were readily available, the Examiner asserts it would have been obvious to one skilled in the art to include in the ordering portion of the invention of *Danknick* providing an order list, providing an electronic shopping cart list, placing an order for the consumable with the reseller using the personal computer, automatically placing the order in response to notifying the user, and prior to placing the order, querying the user to authorize placing the order, because these features would add increased functionality and provide a more friendly user environment.

The Examiner is absolutely mistaken. In the Examiner's "Response to Arguments" section in the Office Action, the Examiner provides *Katz, et al.* and *Isaacson, et al.* as references that support the Official Notice. However, *Katz, et al.* was filed on July 30, 2001 and was published on May 30, 2002. Likewise, *Isaacson, et al.* was filed on April 4, 2001 and was published on February 14, 2002. The Examiner has provided a citation of references which are not appropriate as supporting the "Official Notice" position of the Examiner because such references do not show features that were readily available (old and well-known) at the time of the invention of *Danknick* (which was filed on

November 15, 1996 and issued on May 4, 1999). The present application was filed on November 10, 2000.

Additionally, the Examiner has provided additional references in the Notice of References Cited to *Willner, et al.* (US-2002/0065736), filed May 22, 2001 and published May 30, 2002; *Kargman* (US-2002/0049644), filed September 28, 2001 and published April 25, 2002, which also cannot possibly support the Examiner's position when taking Official Notice.

For these reasons, Applicants respectfully request reconsideration from the Examiner as *Katz* and *Isaacson* cannot possibly provide support for the Examiner's use of Official Notice as these references were not even filed as patent applications at the time Applicants' invention was filed (November 10, 2000). Furthermore, such references do not support that "it was old and well known at the time of the invention of *Danknick*" to provide the features previously noted with respect to the various claims.

For example, claim 1 still recites that the consumable order assistance computer program is configured to (1) receive a notification from the computer peripheral device via the messaging system of the need to order a consumable, (2) alert a user of the personal computer of the notification, and (3) provide an order location to the user for the consumable. *Isaacson, et al.* cannot be used to support the "providing an order location" as evidencing via Official Notice that it was old and well known at the time of the invention of *Danknick* to provide this feature. The Examiner is absolutely wrong.

Accordingly, Applicants believe that the obviousness rejection under 35 U.S.C. §103(a) citing claims 1-20 as being unpatentable over *Danknick*, and further in view of Official Notice, has not been met by the Examiner.

Accordingly, the Applicants respectfully request that the Examiner either allow claims 1-20 or provide additional references that support taking Official Notice, pursuant to the procedures established by 37 C.F.R. §1.107(b) (1993) expressly entitling an applicant, on mere request, to an Examiner affidavit to provide such citations.

Withdrawal of this rejection is respectfully requested.

Information Disclosure Statement

In reviewing the file, it was noted that Pages 2-3 of Applicant's PTO-1449 form, which were attached to an Information Disclosure Statement filed on July 17, 2002, were not initialed by the Examiner. Out of an abundance of caution, a duplicate copy of the PTO-1449 form, including a copy of the as-filed Information Disclosure Statement, is hereby submitted. To the extent the PTO-1449 form has not already been initialed in the file, such examination and initialing is requested at this time.

CONCLUSION

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview before issuance of any such subsequent action.

Respectfully submitted,

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